

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

GEOFFREY ADAMS,	)	
Plaintiff	)	
	)	
vs.	)	Civil Action No. 04-213J
	)	Judge Kim R. Gibson/
MARDI HUNSBERGER, et al.,	)	Magistrate Judge Amy Reynolds Hay
Defendants	)	

MEMORANDUM ORDER

The Plaintiff has filed a Motion to Compel Discovery (doc. 35) challenging the Defendants' response to his July 31, 2006 Request for Production of Documents. Specifically, Plaintiff seeks production of Department of Corrections ("DOC") Transfer Vote Sheets, Transfer Rationale and related policies and/or procedures. The Defendants responded to the production request with certain objections, including claims of privilege or confidentiality. Plaintiff's reply is to the effect that the claims of privilege or confidentiality are false and at odds with Pennsylvania Administrative Code provisions relating to the DOC.

The Court gleans the following from the Declaration of Donald Williamson, DOC Chief of Transfer/Records at Camp Hill, Pennsylvania (doc. 46-2). Vote Sheets are internal DOC documents generated when a petition to transfer an inmate to another institution is made. A Vote Sheet is circulated among critical members of DOC staff at the inmate's current institution. As the title implies, the Vote Sheet contains the vote -- "yes" or "no" -- of each critical staff member. As well, the Vote Sheet contains notes reflecting each member's individual, personal opinions and observations regarding the particular inmate transfer in question. After a transfer has been approved, a Transfer Rationale is generated, which contains the specific reasons for the transfer. There are DOC internal policies and procedures that govern

the institutional transfer process which contain criteria for transfer, disclosure of which would impact DOC's ability to accurately calculate an inmate's appropriateness for transfer. The Defendants argue that disclosure of any of the aforementioned documents may motivate an inmate to retaliate against staff members and/or may provide information that an inmate could easily manipulate in order to affect future decisions regarding his custody. Thus, DOC claims confidentiality of these documents in order to preserve legitimate penological interests of safety and security.

In the Court's view, the Defendants have established a legitimate claim of confidentiality concerning the documents sought by the Plaintiff. Although Plaintiff cites to the case of Castle v. Clymer, 15 F.Supp.2d 640 (E.D.Pa. 1998) and to 37 PA ACD §91.3 as support for his claim of right to this discovery, neither provides any such authority for disclosure.

Accordingly, this 22nd day of January, 2007, upon consideration of the Plaintiff's Motion to Compel and the Defendants' Responses thereto, IT IS HEREBY ORDERED that the motion is DENIED.

IT IS FURTHER ORDERED that if Plaintiff desires review of this Order by the District Judge to whom this case is assigned, Plaintiff must file an application with the Clerk of Court within ten (10) days of the date of this Order. Failure to do so will waive the right to appeal. Siers v. Morrash, 700 F.2d 113 (3d Cir. 1983).

/s/ Amy Reynolds Hay  
AMY REYNOLDS HAY  
United States Magistrate Judge

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